



March 13, 2007

ENGROSSED HOUSE BILL No. 1357

DIGEST OF HB 1357 (Updated March 13, 2007 11:10 am - DI 110)

Citations Affected: IC 8-2.1; IC 9-21; IC 9-29; IC 10-11.

Synopsis: Commercial motor vehicles. Incorporates certain federal regulations pertaining to commercial motor vehicles into Indiana law. Corrects a reference to a federal agency concerning commercial motor vehicles. Amends an exemption from federal regulations to intrastate operators of construction vehicles. Repeals language concerning the use of a farm truck, farm trailer, or farm semitrailer and tractor for the transportation of seasonal fruit or vegetables. Authorizes certain persons who are not state police officers to enforce violations of certain laws pertaining to trucks and trailers having a declared gross weight of at least 10,001 pounds. (Current law sets the declared gross weight threshold at 11,000 pounds.) Makes a conforming amendment.

Effective: Upon passage.

Tincher, Dodge, Austin, Ruppel

(SENATE SPONSORS — WYSS, SIMPSON)

January 16, 2007, read first time and referred to Committee on Roads and Transportation.
February 15, 2007, amended, reported — Do Pass.
February 19, 2007, read second time, ordered engrossed. Engrossed.
February 21, 2007, read third time, passed. Yeas 73, nays 23.

SENATE ACTION

February 27, 2007, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.
March 13, 2007, reported favorably — Do Pass.

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EH 1357—LS 7139/DI 96+



March 13, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1357

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.210-2005,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts **40, 375, 380**, 382
4 through 387, 390 through 393, and 395 through 398 ~~is are~~ incorporated
5 into Indiana law by reference, and, except as provided in subsections
6 (d), (e), (f), and (g), must be complied with by an interstate and
7 intrastate motor carrier of persons or property throughout Indiana.
8 Intrastate motor carriers subject to compliance reviews under 49 CFR
9 385 shall be selected according to criteria determined by the
10 superintendent which must include but ~~is are~~ not limited to factors
11 such as previous history of violations found in roadside compliance
12 checks and other recorded violations. However, the provisions of 49
13 CFR 395 that regulate the hours of service of drivers, including
14 requirements for the maintenance of logs, do not apply to a driver of a
15 truck that is registered by the bureau of motor vehicles and used as a
16 farm truck under IC 9-18, or a vehicle operated in intrastate
17 construction or construction related service, or the restoration of public

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utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, ~~is~~ **are** incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the ~~Federal Highway Administration~~; **United States Department of Transportation**; and

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- 1 (B) maintains an acceptable competency level as established
 2 by the state police department; or
 3 (2) an employee of a law enforcement agency who:
 4 (A) before January 1, 1991, has successfully completed a
 5 course of instruction approved by the ~~Federal Highway~~
 6 ~~Administration;~~ **United States Department of**
 7 **Transportation;** and
 8 (B) maintains an acceptable competency level as established
 9 by the state police department;
 10 on the enforcement of 49 CFR, may, upon demand, inspect the
 11 books, accounts, papers, records, memoranda, equipment, and
 12 premises of any carrier, including a carrier exempt under section
 13 3 of this chapter.
 14 (e) A person hired before September 1, 1985, who operates a motor
 15 vehicle intrastate incidentally to the person's normal employment duties
 16 and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a))
 17 is exempt from 49 CFR 391 as incorporated by this section.
 18 (f) Notwithstanding any provision of 49 CFR 391 to the contrary, a
 19 person at least eighteen (18) years of age and less than twenty-one (21)
 20 years of age may be employed as a driver to operate a commercial
 21 motor vehicle intrastate. However, a person employed under this
 22 subsection is not exempt from any other provision of 49 CFR 391.
 23 (g) Notwithstanding subsection (a) or (b), the following provisions
 24 of 49 CFR do not apply to private carriers of property operated only in
 25 intrastate commerce or any carriers of property operated only in
 26 intrastate commerce ~~whether or not the carrier vehicle is of a class that~~
 27 ~~requires a commercial driver's license:~~ **while employed in**
 28 **construction or construction related service:**
 29 (1) Subpart 391.41(b)(3) as it applies to physical qualifications of
 30 a driver who has been diagnosed as an insulin dependent diabetic,
 31 if the driver has applied for and been granted an intrastate
 32 medical waiver by the bureau of motor vehicles pursuant to this
 33 subsection. The same standards and the following procedures
 34 shall apply for this waiver whether or not the driver is required to
 35 hold a commercial driver's license. An application for the waiver
 36 shall be submitted by the driver and completed and signed by a
 37 certified endocrinologist or the driver's treating physician
 38 attesting that the driver:
 39 (A) is not otherwise physically disqualified under Subpart
 40 391.41 to operate a motor vehicle, whether or not any
 41 additional disqualifying condition results from the diabetic
 42 condition, and is not likely to suffer any diminution in driving

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ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this ~~clause~~, **subdivision**, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this ~~clause~~, **subdivision**.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of

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each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 2. IC 9-21-21-3, AS ADDED BY P.L.210-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~Except as provided in section 4 of this chapter,~~ If the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate the farm truck, farm trailer, or farm semitrailer and tractor or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

(1) in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under ~~IC 9-29-5-13.5(c)~~ **IC 9-29-5-13.5(b)** due for the remainder of the registration year for the license fee.

SECTION 3. IC 9-29-5-13.5, AS AMENDED BY P.L.210-2005, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.5. (a) This section applies to a truck, trailer, or semitrailer and tractor for which a license fee provided in section 13(b) of this chapter has been paid.

(b) ~~Except as provided in subsection (d),~~ If the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) begins to operate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under section 13(b) of this chapter has been paid, the owner shall pay the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight reduced by a credit determined under subsection

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(c) to license the truck, trailer, or semitrailer and tractor.

(c) The credit provided in subsection (b) equals:

- (1) the license fee paid under section 13(b) of this chapter; reduced by
- (2) ten percent (10%) for each full or partial calendar month that has elapsed in the registration year for which the license fee has been paid.

The credit may not exceed ninety percent (90%) of the license fee paid under section 13(b) of this chapter.

~~(d) Notwithstanding subsection (b) and IC 9-18-2-4, the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) or an employee or family member of the owner may operate the truck, trailer, or semitrailer and tractor intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:~~

- ~~(1) any license fee due under section 13(b) of this chapter; and~~
- ~~(2) eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter.~~

SECTION 4. IC 10-11-2-26, AS AMENDED BY P.L.156-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least ~~eleven ten~~ thousand ~~(11,000)~~ **one (10,001)** pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

- (1) IC 6-1.1-7-10.
- (2) IC 6-6-1.1-1202.
- (3) IC 6-6-2.5.
- (4) IC 6-6-4.1-12.
- (5) IC 8-2.1.
- (6) IC 9-18.
- (7) IC 9-19.
- (8) IC 9-20.
- (9) IC 9-21-7-2 through IC 9-21-7-11.
- (10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.

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- 1 (11) IC 9-21-8-45 through IC 9-21-8-48.
- 2 (12) IC 9-21-9.
- 3 (13) IC 9-21-15.
- 4 (14) IC 9-21-21.
- 5 (15) IC 9-24-1-1 through IC 9-24-1-2.
- 6 (16) IC 9-24-1-7.
- 7 (17) Except as provided in subsection (c), IC 9-24-1-6,
- 8 IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial
- 9 driver's license.
- 10 (18) IC 9-24-4.
- 11 (19) IC 9-24-5.
- 12 (20) IC 9-24-11-4.
- 13 (21) IC 9-24-13-3.
- 14 (22) IC 9-24-18-1 through IC 9-24-18-2.
- 15 (23) IC 9-25-4-3.
- 16 (24) IC 9-28-4.
- 17 (25) IC 9-28-5.
- 18 (26) IC 9-28-6.
- 19 (27) IC 9-29-5-11 through IC 9-29-5-13.
- 20 (28) IC 9-29-5-42.
- 21 (29) IC 9-29-6-1.
- 22 (30) IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.
- 23 (31) IC 13-30-2-1.
- 24 (b) For the purpose of enforcing this section, a person assigned
- 25 under this section may detain a person in the same manner as a law
- 26 enforcement officer under IC 34-28-5-3.
- 27 (c) A person assigned under this section may not enforce
- 28 IC 9-24-6-14 or IC 9-24-6-15.
- 29 SECTION 5. IC 9-21-21-4 IS REPEALED [EFFECTIVE UPON
- 30 PASSAGE].
- 31 SECTION 6. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1357, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, delete lines 31 through 42.

Page 8, delete lines 1 through 15.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1357 as introduced.)

AUSTIN, Chair

Committee Vote: yeas 10, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred House Bill No. 1357, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1357 as printed February 16, 2007.)

WYSS, Chairperson

Committee Vote: Yeas 11, Nays 0.

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